



### Rule(s) Review Checklist Addendum

Document Reviewed: **WAC 458-20-140 Photofinishers and photographers.**

Date last reviewed: **7/27/2000**

Reviewer: **Gayle Carlson**

Date current review completed: **January 20, 2004**

Briefly explain the subject matter of the document:

**This rule provides reporting instructions for photofinishers, and portrait and commercial photographers.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

#### 1. Public requests for review:

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

#### 2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
	<b>X</b>	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	<b>X</b>	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	<b>X</b>	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	<b>X</b>	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
<b>X</b>		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide



		information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is "yes" to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**When next revised information from Det. 01-177, 21 WTD 258, which provides an explanation of the tax consequences for sitting or shooting fees, should be incorporated.**

**3. Additional information:** Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

**The rule can be rewritten with additional useful information, as well as providing examples. When revised, this rule should:**

- **Recognize RCW 82.04.2907, which created a special tax classification for income from royalties;**
- **Add verbiage explaining the multiple activities tax credit (MATC) and the applicability of the manufacturing machinery and equipment exemption; and**
- **Address motion picture and video production company taxability. Refer to Special Notice reissued April 2002.**

**4. Listing of documents reviewed:** The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use "bullets" with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented: **In addition to RCWs listed in previous review.**

- **RCW 82.04.070 "Gross proceeds of sales"**
- **RCW 82.04.080 "Gross income of the business"**
- **RCW 82.04.090 "Value proceeding or accruing"**
- **RCW 82.04.140 "Business"**
- **RCW 82.04.150 "Engaging in business"**
- **RCW 82.04.160 "Cash discount"**
- **RCW 82.04.200 "In this state," "within this state"**
- **RCW 82.12.020 Use tax imposed**

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs):

- **ETA 397.04.140 Photofinishing for out-of-state customers. This ETA was cancelled on September 14, 2001, after the previous review.**



Court Decisions: **None.**

Board of Tax Appeals Decisions (BTAs): **None.**

Appeals Division Decisions (WTDs):

- **Det 93-261, 13 WTD 183.** This WTD states this rule does not address the tax consequences of a sale which includes both prints or transparencies and certain intangible rights.
- **Det. 01-177, 21 WTD 258.** Refers to RCW 82.04.2907 which created new reporting classification for royalties. Also the applicability of retail sales tax and use tax. Addresses when sitting and shooting fees should be classified service and other activities, and retailing with retail sales tax due.

Attorney General Opinions (AGOs): **None.**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

- **RCW 82.04.2907 Tax on royalties from granting intangible rights.**
- **BTA Docket No. 14117.** Use tax issue regarding "dealer envelopes" which taxpayer purchases in bulk, prints with applicable dealer information, and distributes to dealers at no cost.
- **BTA Docket No. 2328.** Use tax issues on several items.

##### 5. Review Recommendation:

- |               |   |
|---------------|---|
| <u>  X  </u>  | <b>Amend</b>  |
| <u>      </u> | <b>Repeal/Cancel</b> (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| <u>      </u> | <b>Leave as is</b> (Appropriate even if the recommendation is to incorporate the current information into another rule.)                              |
| <u>      </u> | <b>Begin the rule-making process for possible revision.</b> (Applies only when the Department has received a petition to revise a rule.)              |

**Explanation of recommendation:** Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

**Rule 140 should be amended to incorporate the information noted in sections 2 and 3 of this review. Information from ETA 125.08.140 should also be incorporated as recommended in the previous review of the advisory. When this rule is next amended, information provided in WAC 458-20-142 (Photographic equipment and supplies) should be consolidated into this rule.**



**6. Manager action:** Date: February 14, 2004

AL Reviewed and accepted recommendation

Amendment priority (to be completed by manager):

     1  
  X   2  
     3  
     4